

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES HOLOVICH,

Plaintiff,

v.

PROGRESSIVE SPECIALTY
INSURANCE CO.,

Defendant.

:
:
:
:
:
:
:
:
:
:

CIVIL ACTION NO. 22-1107

ORDER

AND NOW, this 28th day of April, 2022, after considering the complaint filed by the plaintiff, James Holovich (Doc. No. 1-5) and the motion to dismiss the complaint filed by the defendant, Progressive Specialty Insurance Co. (Doc. No. 3); and for the reasons set forth in the separately filed memorandum opinion, it is hereby **ORDERED** as follows:

1. The motion to dismiss (Doc. No. 3) is **GRANTED IN PART** and **DENIED IN PART** as follows:

a. The motion to dismiss, insofar as the defendant seeks dismissal of the plaintiff's claims for breach of contract (count I) and unjust enrichment (count III), is **GRANTED**. The plaintiff's claims for breach of contract based on the defendant's policy issued to Allison Zimmerman (count I) and unjust enrichment (count III) are **DISMISSED WITH PREJUDICE**;

b. The motion to dismiss, insofar as the defendant seeks dismissal of the plaintiff's claim for a violation of Pennsylvania's Unfair Trade Practices and Consumer Protection Law (count IV) is **GRANTED**. The plaintiff's claim for a violation of

Pennsylvania's Unfair Trade Practices and Consumer Protection Law is **DISMISSED WITHOUT PREJUDICE**; and

c. The motion to dismiss, insofar as the defendant seeks dismissal of the plaintiff's claim breach of contract based on his insurance policy with the defendant (count II) is **DENIED**;

2. The plaintiff shall have a period of **fourteen (14) days** from the date of this order to file an amended complaint to the extent he can assert a plausible claim under the Unfair Trade Practices and Consumer Protection Law;

3. If the plaintiff does not file an amended complaint in accordance with paragraph 2 of this order, the court will deem him to have stood on his original complaint, and the defendant shall have **fourteen (14) days** from the expiration of the 14-day period set forth in paragraph 2 to file an answer to the complaint; and

4. If the plaintiff timely files an amended complaint in accordance with paragraph 2 of this order, the defendant shall have **fourteen (14) days** from the date of the filing of an amended complaint to file a response to the amended complaint.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.